

§ 314. Survey; maps; compensation

The line of route of said road may be surveyed and located through and across any of said lands at any time, upon permission therefor being obtained from the Secretary of the Interior; but before the grant of such right of way shall become effective a map of the survey of the line or route of said road must be filed with and approved by the Secretary of the Interior, and the company must make payment to the Secretary of the Interior for the benefit of the tribe or nation, of full compensation for such right of way, including all damage to improvements and adjacent lands, which compensation shall be determined and paid under the direction of the Secretary of the Interior, in such manner as he may prescribe. Before any such railroad shall be constructed through any land, claim, or improvement, held by individual occupants or allottees in pursuance of any treaties or laws of the United States, compensation shall be made to such occupant or allottee for all property to be taken, or damage done, by reason of the construction of such railroad. In case of failure to make amicable settlement with any such occupant or allottee, such compensation shall be determined by the appraisement of three disinterested referees, to be appointed by the Secretary of the Interior, who, before entering upon the duties of their appointment, shall take and subscribe before competent authority an oath that they will faithfully and impartially discharge the duties of their appointment, which oath, duly certified, shall be returned with their award to the Secretary of the Interior. If the referees cannot agree, then any two of them are authorized to make the award. Either party being dissatisfied with the finding of the referees shall have the right within sixty days after the making of the award and notice of the same, to appeal, if said land is situated in any State or Territory other than Oklahoma, to the United States district court for such State or Territory, where the case shall be tried de novo and the judgment for damages rendered by the court shall be final and conclusive.

When proceedings are commenced in court as aforesaid, the railroad company shall deposit the amount of the award made by the referees with the court to abide the judgment thereof, and then have the right to enter upon the property sought to be condemned and proceed with the construction of the railway. Each of the referees shall receive for his compensation the sum of \$4 per day while engaged in the hearing of any case submitted to them under sections 312 to 318 of this title. Witnesses shall receive the fees usually allowed by courts within the district where such land is located. Costs, including compensation of the referees, shall be made part of the award or judgment, and be paid by such railroad company.

(Mar. 2, 1899, ch. 374, § 3, 30 Stat. 991; Feb. 28, 1902, ch. 134, § 23, 32 Stat. 50.)

§ 315. Time for completion of road; forfeiture

If any such company shall fail to construct and put in operation one-tenth of its entire line in one year, or to complete its road within three years after the approval of its map of location

by the Secretary of the Interior, the right of way granted shall be deemed forfeited and abandoned ipso facto as to that portion of the road not then constructed and in operation: *Provided*, That the Secretary may, when he deems proper, extend, for a period not exceeding two years, the time for the completion of any road for which right of way has been granted and a part of which shall have been built.

(Mar. 2, 1899, ch. 374, § 4, 30 Stat. 991.)

§ 316. Rights of several roads through canyons

The provisions of section 935¹ of title 43 relating to the rights of several railroads through any canyon, pass, or defile are extended and made applicable to rights of way granted under sections 312 to 318 of this title and to railroad companies obtaining such rights of way.

(Mar. 2, 1899, ch. 374, § 6, 30 Stat. 992.)

REFERENCES IN TEXT

Section 935 of title 43, referred to in text, was repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, under, and through the public lands and lands in the National Forest System.

§ 317. Regulations

The Secretary of the Interior shall make all needful rules and regulations, not inconsistent with sections 312 to 318 of this title, for the proper execution and carrying into effect of all the provisions of said sections.

(Mar. 2, 1899, ch. 374, § 7, 30 Stat. 992.)

§ 318. Amendment or repeal of sections

Congress reserves the right at any time to alter, amend, or repeal sections 312 to 318 of this title or any portion thereof.

(Mar. 2, 1899, ch. 374, § 8, 30 Stat. 992.)

§ 318a. Roads on Indian reservations; appropriation

Appropriations are hereby authorized out of any money in the Treasury not otherwise appropriated for material, equipment, supervision and engineering, and the employment of Indian labor in the survey, improvement, construction, and maintenance of Indian reservation roads not eligible to Government aid under the Federal Highway Act and for which no other appropriation is available, under such rules and regulations as may be prescribed by the Secretary¹ of the Interior.

(May 26, 1928, ch. 756, 45 Stat. 750.)

REFERENCES IN TEXT

The Federal Highway Act, referred to in text, is act Nov. 9, 1921, ch. 119, 42 Stat. 212, which enacted sections 1, 2, 3, 3a, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 to 20, 21, 22, 23, 24, and 25 of former Title 23, Highways, and amended sections 5 and 12a of former Title 23 and section 3 of Title 50, War and National Defense. Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 919, repealed the Federal Highway Act, with the exception of the amendment to section 3 of

¹ See References in Text note below.

¹ So in original. Probably should be "Secretary".

Title 50, as part of the general revision and reenactment of Title 23, Highways.

APPROPRIATIONS FOR FISCAL YEARS 1950 AND 1951

Act June 29, 1948, ch. 732, §4(c), 62 Stat. 1105, authorized the appropriation of \$6,000,000 for fiscal years 1950 and 1951, respectively, for the carrying out of the provisions of this section.

§ 318b. Repealed. Pub. L. 85-767, § 2[19], [23], Aug. 27, 1958, 72 Stat. 919

Section, acts June 16, 1936, ch. 582, §6, 49 Stat. 1521; Sept. 5, 1940, ch. 715, §10, 54 Stat. 870; June 30, 1949, ch. 288, title I, §103(a), 63 Stat. 380; 1949 Reorg. Plan No. 7, §1, eff. Aug. 19, 1949, 14 F.R. 5228, 63 Stat. 1070, related to location and design of roads by the Bureau of Public Roads.

§ 319. Rights-of-way for telephone and telegraph lines

The Secretary of the Interior is authorized and empowered to grant a right of way, in the nature of an easement, for the construction, operation, and maintenance of telephone and telegraph lines and offices for general telephone and telegraph business through any Indian reservation, through any lands held by an Indian tribe or nation in the former Indian Territory, through any lands reserved for an Indian agency or Indian school, or for other purpose in connection with the Indian service, or through any lands which have been allotted in severalty to any individual Indian under any law or treaty, but which have not been conveyed to the allottee with full power of alienation, upon the terms and conditions herein expressed. No such lines shall be constructed across Indian lands, as above mentioned, until authority therefor has first been obtained from the Secretary of the Interior, and the maps of definite location of the lines shall be subject to his approval. The compensation to be paid the tribes in their tribal capacity and the individual allottees for such right of way through their lands shall be determined in such manner as the Secretary of the Interior may direct, and shall be subject to his final approval; and where such lines are not subject to State or Territorial taxation the company or owner of the line shall pay to the Secretary of the Interior, for the use and benefit of the Indians, such annual tax as he may designate, not exceeding \$5 for each ten miles of line so constructed and maintained; and all such lines shall be constructed and maintained under such rules and regulations as said Secretary may prescribe. But nothing herein contained shall be so construed as to exempt the owners of such lines from the payment of any tax that may be lawfully assessed against them by either State, Territorial, or municipal authority; and Congress hereby expressly reserves the right to regulate the tolls or charges for the transmission of messages over any lines constructed under the provisions of this section: *Provided*, That incorporated cities and towns into or through which such telephone or telegraphic lines may be constructed shall have the power to regulate the manner of construction therein, and nothing herein contained shall be so construed as to deny the right of municipal taxation in such towns and cities.

(Mar. 3, 1901, ch. 832, §3, 31 Stat. 1083.)

CODIFICATION

The "former Indian Territory", referred to in text, was in the original "Indian Territory", and has been designated as former Indian Territory by virtue of the admission of such former Territory and the Territory of Oklahoma to the Union as the State of Oklahoma, pursuant to act June 16, 1906, ch. 3335, 34 Stat. 267.

Section is comprised of the first par. of section 3 of act Mar. 3, 1901. The second par. of such section 3 is classified to section 357 of this title.

§ 320. Acquisition of lands for reservoirs or materials

When, in the judgment of the Secretary of the Interior, it is necessary for any railway company owning or operating a line of railway in any Indian reservation to acquire lands in such Indian reservation for reservoirs, material, or ballast pits for the construction, repair, and maintenance of its railway, or for the purpose of planting and growing thereon trees to protect its line of railway, the said Secretary is authorized to grant such lands to any such railway company under such terms and conditions and such rules and regulations as may be prescribed by the said Secretary.

When any railway company desiring to secure the benefits of this provision shall file with the Secretary of the Interior an application describing the lands which it desires to purchase, upon the payment of the price agreed upon the said Secretary shall cause such lands to be conveyed to the railway company applying therefor upon such terms and conditions as he may deem proper: *Provided*, That no lands shall be acquired under the terms of this provision in greater quantities than forty acres for any one reservoir, and one hundred and sixty acres for any material or ballast pit, to the extent of not more than one reservoir and one material or gravel pit in any one section of ten miles of any such railway in any Indian reservation: *And provided further*, That the lands acquired for tree planting shall be taken only at such places along the line of the railway company applying therefor as in the judgment of the said Secretary may be necessary, and shall be taken in strips adjoining and parallel with the right of way of the railway company taking the same, and shall not exceed one hundred and fifty feet in width.

All moneys paid for such lands shall be deposited in the Treasury of the United States to the credit of the tribe or tribes, and the moneys received by said Secretary as damages sustained by individual members of the Indian tribe, which damages shall be ascertained by the Secretary of the Interior and paid by the railway company taking such lands, shall be paid by said Secretary to the Indian or Indians sustaining such damages. The provisions of this section are extended and made applicable to any lands which have been allotted in severalty to any individual Indian under any law or treaty, but which have not been conveyed to the allottee with full power of alienation; the damages and compensation to be paid to any Indian allottee shall be ascertained and fixed in such manner as the Secretary of the Interior may direct and shall be paid by the railway company to said Secretary; the damages and compensation paid